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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Second performance report of the International Criminal Tribunal for Rwanda for the biennium 2002-2003

Report of the Secretary-General*

Summary

The second performance report of the International Criminal Tribunal for Rwanda for the biennium 2002-2003 is submitted pursuant to resolution 57/289 of 20 December 2002. The report reflects the additional requirement of $4,517,100 gross ($4,392,200 net) over the revised appropriation for the biennium 2002-2003. The increased requirements include changes with respect to the combined effect of exchange rates and inflation ($7,499,600 gross ($7,497,500 net)), partially offset by decreases in post incumbency and other changes ($2,982,500 gross ($3,105,300 net)).

The Assembly is requested to revise the appropriation for 2002-2003 to $208,479,700 gross ($187,262,900 net) for the Special Account for the International Criminal Tribunal for Rwanda.

* The delayed submission of this report was due to the extensive consultation required for its finalization.

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I. Introduction

1. The purpose of the second performance report on the budget for the International Criminal Tribunal for Rwanda is to provide an estimate of the final level of resources required for the biennium. The estimate is based on actual expenditures for the first 20 months of the biennium, projected requirements for the last 4 months and changes in inflation and exchange rates and cost-of-living adjustments as compared with the assumption made in the first performance report (A/57/481 and Corr.1), which was reviewed by the General Assembly at its fifty-seventh session and which formed the basis for the revised appropriation for the biennium 2002-2003.

2. The activities of the Tribunal are predominantly trial-based, and hence most of the requirements are linked to the pace of trial activities. However, due to the slower than anticipated pace of trial activities in the biennium 2002-2003, various objects of expenditure reflect a lower than anticipated level of requirements.

II. Explanation of the changes in net expenditure requirements

3. The estimates proposed in the present report reflect an increase of $4,517,000 gross ($4,392,200 net) as compared with the level of the revised appropriation approved by the General Assembly in its resolution 57/289 of 20 December 2002. The distribution of the projected changes and the proposed final appropriation for the International Criminal Tribunal for Rwanda for the biennium 2002-2003 are set out in tables 1 and 2.

Table 1
Summary of estimated final requirements by component and main determining factor
(Thousands of United States dollars)

		Projected changes				
Component	*Revised 2002-2003 appropriation*[a]	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed 2002-2003 final appropriation*
Expenditure						
Chambers	5 009.1	(25.6)	33.7	250.2	258.3	5 267.4
Office of the Prosecutor	51 300.4	(1 110.5)	3 025.5	(1 828.8)	86.2	51 386.6
Registry	147 653.1	(2 847.5)	8 424.0	(1 403.9)	4 172.6	151 825.7
Total expenditure (gross)	**203 962.6**	**(3 983.6)**	**11 483.2**	**(2 982.5)**	**4 517.1**	**208 479.7**
Income						
Staff assessment	21 091.9	(131.8)	133.9	122.8	124.9	21 216.8
Total requirements (net)	**182 870.7**	**(3 851.8)**	**11 349.3**	**(3 105.3)**	**4 392.2**	**187 262.9**

[a] Includes commitment authority in the amount of $2,177,700 in accordance with General Assembly resolution 57/289.

Table 2
Summary of projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2002-2003 appropriation*	*Projected changes*				*Proposed 2002-2003 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	124 325.4	(2 368.6)	8 901.3	(4 415.5)	2 117.2	126 442.6
Other staff costs	4 445.5	(118.7)	226.1	75.4	182.8	4 628.3
Salaries and allowances of judges	4 591.9	(25.6)	37.7	395.3	407.4	4 999.3
Consultants and experts	788.8	(30.7)	37.0	(120.6)	(114.3)	674.5
Travel of representatives	417.2	–	(4.0)	(145.1)	(149.1)	268.1
Travel	5 447.7	–	(53.2)	(1 275.5)	(1 328.7)	4 119.0
Contractual services	20 772.1	(674.5)	1 091.1	2 325.3	2 741.9	23 514.0
General operating expenses	12 352.7	(366.5)	627.6	107.3	368.4	12 721.1
Hospitality	6.5	(0.1)	0.3	(0.1)	0.1	6.6
Supplies and materials	3 147.0	(89.1)	161.8	(80.8)	(8.1)	3 138.9
Furniture and equipment	5 142.9	(138.8)	262.1	11.9	135.2	5 278.1
Improvement of premises	543.4	(15.6)	28.0	34.6	47.0	590.4
Grants and contributions	889.6	(23.6)	33.5	(17.5)	(7.6)	882.0
Staff assessment	21 091.9	(131.8)	133.9	122.8	124.9	21 216.8
Total expenditure (gross)	**203 962.6**	**(3 983.6)**	**11 483.2**	**(2 982.5)**	**4 517.1**	**208 479.7**
Income						
Staff assessment	21 091.9	(131.8)	133.9	122.8	124.9	21 216.8
Total requirements (net)	**182 870.7**	**(3 851.8)**	**11 349.3**	**(3 105.3)**	**4 392.2**	**187 262.9**

A. Variations in budgetary assumptions

Rates of exchange and inflation (increase: $7,499,600)

4. The increase in this category is attributable to the impact of changes in inflation ($11,483,200), offset by favourable rate of exchange ($3,983,600) of the United States dollar, primarily against the Tanzanian shilling and the Rwanda franc, during the period from January to October 2003, and the application of the October exchange rate for November and December 2003. With regard to inflation, the adjustments are based on the latest information available on consumer price indices as well as adjustments resulting from differences in actual post adjustment indices for staff in the Professional category and above and actual cost-of-living adjustments of salary scales for staff in the General Service and related categories compared with the assumptions made in the revised appropriations.

B. Other requirements

Chambers

Table 3
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

		Projected changes				
Object of expenditure	*Revised 2002-2003 appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed 2002-2003 final appropriation*
Salaries and allowances of judges	4 591.9	(25.6)	37.7	395.3	407.4	4 999.3
Travel of representatives	417.2	-	(4.0)	(145.1)	(149.1)	268.1
Total	**5 009.1**	**(25.6)**	**33.7**	**250.2**	**258.3**	**5 267.4**

Salaries and allowances of judges (increase: $395,300)

5. The increased requirements under this heading are attributable mainly to the extension of four judges beyond the expiry of their terms on 24 May 2003. By its resolution 1482 (2003), the Security Council decided that Judge Dolenc and Judge Ostrovsky, who had been replaced as members of the Tribunal, should finish the *Cyangugu* case, which had begun before their terms of office expired, before the end of February 2004, and that Judge Maqutu and Judge Pillay, also replaced as members of the Tribunal, should finish the *Kajelijeli*, *Kamuhanda* and *Media* cases before the end of December 2003.

Travel of representatives (decrease: $145,100)

6. The reduction in travel requirements can be attributed to the lower than anticipated pace of trials during the period under review, particularly the *Butare* and *Military I* cases, which resulted in fewer trips by judges between The Hague and Arusha in connection with appeals.

Office of the Prosecutor

Table 4
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2002-2003 appropriation*	*Projected changes*				*Proposed 2002-2003 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	40 097.4	(1 043.3)	2 987.2	(1 036.4)	907.5	41 004.9
Consultants and experts	400.2	(19.6)	16.9	62.4	59.7	459.9
Travel	3 164.2	-	(30.8)	(390.3)	(421.1)	2 743.1
General operating expenses	629.7	(35.2)	25.4	(464.5)	(474.3)	155.4
Staff assessment	7 008.9	(12.4)	26.8	-	14.4	7 023.3
Total (gross)	**51 300.4**	**(1 110.5)**	**3 025.5**	**(1 828.8)**	**86.2**	**51 386.6**
Income						
Staff assessment	7 008.9	(12.4)	26.8	-	14.4	7 023.3
Total (net)	**44 291.5**	**(1 098.1)**	**2 998.7**	**(1 828.8)**	**71.8**	**44 363.3**

Posts (decrease: $1,036,400)

7. The decrease under this heading resulted primarily from the higher than standard vacancy rates experienced by the Office of the Prosecutor during the biennium 2002-2003. During 2002, the average vacancy rates were 19 per cent for Professional posts and 17 per cent for General Service posts, compared with the budgetary assumptions of 18 per cent and 12 per cent respectively. During the period from January to August 2003, average vacancy rates were 18 per cent for Professional posts and 14 per cent for General Service posts. The decreased requirements resulting from higher than standard vacancy rates were offset by increased requirements under common staff costs. As at the time of the preparation of the present report, a total of 38 posts (33 Professional and 5 General Service) remained unencumbered, reflecting actual vacancy rates of 19 per cent and 11 per cent for Professional and General Service posts respectively.

8. In its resolution 1503 (2003), the Security Council, noting the letter of the Secretary-General (S/2003/766) and convinced that the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda could most efficiently and expeditiously meet their respective responsibilities if each had its own Prosecutor, amended article 15 of the statute of the International Criminal Tribunal for Rwanda. In its resolution 1505 (2003), the Security Council appointed a Prosecutor of the International Criminal Tribunal for Rwanda with effect from 15 September 2003, for a four-year term following nomination by the Secretary-General. Subsequently, a position for the Prosecutor under general temporary assistance was created under the Registry to meet the

salary and related common staff cost requirements from 15 September to 31 December 2003.

9. Provisions under staff assessment amount to $7,023,300, reflecting a net increase of $14,400, which are offset under income from staff assessment.

Consultants and experts (increase: $62,400)

10. The increase in this category is due to the higher than expected number of expert witnesses and consultants anticipated to appear before the court. Four expert witnesses would be called for the *Government 1* and *Government 2* cases, which are expected to commence in November 2003. The four expert witnesses will make 10 trips to Arusha.

Travel (decrease: $390,300)

11. The decrease in requirements for travel is due partly to the low number of trips taken as compared with the projections for 2002-2003. Of the estimated 1,500 trips (including trips within Rwanda to support the trial teams in ongoing trials), only 45 per cent were actually undertaken owing to the slow pace at which the trials have progressed. With regard to the travel of the intelligence tracking teams, out of 91 investigation targets projected for 2002-2003, information about the whereabouts of 16 targets who are at large was not forthcoming. This has affected on the ability of the tracking team to launch its effort in full and track their movements. Moreover, the special investigation team, formed in the latter part of 2001 with extensive travel projected in the African and European regions, has undertaken less travel owing to the non-cooperation or less than the expected level of cooperation from Member States.

General operating expenses (decrease: $464,500)

12. The reduction is attributable mainly to lower actual requirements for the cost of relocating prosecution and defence witnesses to other countries and their sustenance. Only 8 actual prosecution witnesses, compared with a projected 26, and 25 defence witnesses against a projected 44, have been relocated thus far. Furthermore, owing to logistical problems, the planned field offices in Africa for the Special Investigations Unit have not been rented.

Registry

Table 5
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2002-2003 appropriation*	*Projected changes*				*Proposed 2002-2003 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	84 228.0	(1 325.3)	5 914.1	(3 379.1)	1 209.7	85 437.7
Other staff costs	4 445.5	(118.7)	226.1	75.4	182.8	4 628.3
Consultants and experts	388.6	(11.1)	20.1	(183.0)	(174.0)	214.6
Travel	2 283.5	-	(22.4)	(885.2)	(907.6)	1 375.9
Contractual services	20 772.1	(674.5)	1 091.1	2 325.3	2 741.9	23 514.0
General operating expenses	11 723.0	(331.3)	602.2	571.8	842.7	12 565.7
Hospitality	6.5	(0.1)	0.3	(0.1)	0.1	6.6
Supplies and materials	3 147.0	(89.1)	161.8	(80.8)	(8.1)	3 138.9
Furniture and equipment	5 142.9	(138.8)	262.1	11.9	135.2	5 278.1
Improvement of premises	543.4	(15.6)	28.0	34.6	47.0	590.4
Grants and contributions	889.6	(23.6)	33.5	(17.5)	(7.6)	882.0
Staff assessment	14 083.0	(119.4)	107.1	122.8	110.5	14 193.5
Total (gross)	**147 653.1**	**(2 847.5)**	**8 424.0**	**(1 403.9)**	**4 172.6**	**151 825.7**
Income						
Staff assessment	14 083.0	(119.4)	107.1	122.8	110.5	14 193.5
Total (net)	**133 570.1**	**(2 728.1)**	**8 316.9**	**(1 526.7)**	**4 062.1**	**137 632.2**

Posts (decrease: $3,379,100)

13. The decrease under this heading is caused by the net effect of a consistently higher than standard vacancy rate. The budgetary assumptions included a vacancy rate of 18 per cent for the Professional category and above and 12 per cent for the General Service and related categories. During 2002, the average vacancy rates were 20 per cent for the Professional category and 13 per cent for General Service category. For the period from January to August 2003, the average vacancy rates were 18 per cent for the Professional category and 11 per cent for the General Service category, resulting in savings under this heading. The decreased requirements in salaries were offset by increased requirements under common staff costs. At the time of the preparation of the present report, a total of 89 posts (36 Professional and 53 General Service) remained unencumbered, reflecting actual vacancy rates of 18 per cent for Professional posts and 10 per cent for General Service posts.

14. Provisions under staff assessment amount to $14,193,500, reflecting a net increase of $110,500, which is offset under income from staff assessment.

Other staff costs (increase: $75,400)

15. The increase in requirements is attributed to general temporary assistance with respect to the new position of Prosecutor, established with effect from 15 September 2003.

Consultants and experts (decrease: $183,000)

16. The savings under this heading is attributable to the slow pace at which the trials progressed during 2002-2003, particularly the *Butare* and *Military I* cases. Out of the projected 32 expert witnesses, only 17 had arrived as at the end of August 2003, while an additional 4 witnesses are expected to arrive from September to December 2003 for the *Gacumbitsi* and *Ndindabahizi* cases.

Travel (decrease: $885,200)

17. As a result of the lower than anticipated trial activity during the biennium 2002-2003, the number of prosecution witnesses and accompanying dependants expected to travel during the biennium is approximately 108, as compared with 600 used in arriving at the 2002-2003 budget estimates. Furthermore, of the 315 defence witnesses to appear before the Court, only 270 actually travelled.

18. The decrease under travel of victims and witnesses is offset by increased requirements for the travel of the Registrar and his staff ($149,000) and increased requirements for the travel of internal audit staff from the Office of Internal Oversight Services ($45,300).

Contractual services (increase: $2,325,300)

19. The net increase in resources primarily reflects additional requirements for defence counsel fees ($2,380,800). The *Butare* and *Military I* cases have required more hours to be booked for the pre-trial and trial stages than had been projected initially. The increase is offset by lower than anticipated Internet charges ($16,800) and lower than estimated external audit costs ($38,200).

General operating expenses (increase: $571,800)

20. The net increase in resource requirements in this category results from higher landing fees and ground handling charges at both the Kigali and Arusha airports associated with the rental and operation of a fixed-wing aircraft ($270,600). The increase also reflects increases in communication ($385,300), freight ($184,400) and bank charges ($61,900). The increase is partially offset by savings totalling $330,400 arising from the decrease in requirements for the rental and maintenance of premises ($94,300), utilities ($220,600) and miscellaneous services ($25,000), namely maintenance services, licence fees and vehicle liability and repairs.

Supplies and materials (decrease: $80,800)

21. The reduced requirements under this heading pertain largely to the discontinuation of the online subscription to Lexis-Nexis for the library ($20,000), supplies and materials for the United Nations Detention Facility ($39,200) and communications spare parts ($75,500). Those reductions are offset by an increase under petrol, oil and lubricants ($43,900) and miscellaneous supplies ($10,000).

Improvement of premises (increase: $34,600)

22. The increase relates primarily to the cost of a peripheral fence and directional signboards.

III. Conclusion

23. The General Assembly is requested to take note of the present report and to approve the revised appropriation for the biennium 2002-2003 of $208,479,700 gross ($187,262,900 net) for the Special Account for the International Criminal Tribunal for Rwanda.

Annex I

Budgetary assumptions

The following parameters were used in formulating the present proposed estimates for the final appropriation:

	Duty station															
	The Hague (euro to US$ 1)				*Arusha (shilling to US$ 1)*				*Kigali (franc to US$ 1)*				*New York (United States dollars)*			
	Estimates used for the revised appropriation		*Proposed estimates for the final appropriation*		*Estimates used for the revised appropriation*		*Proposed estimates for the final appropriation*		*Estimates used for the revised appropriation*		*Proposed estimates for the final appropriation*		*Estimates used for the revised appropriation*		*Proposed estimates for the final appropriation*	
Budget parameters	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*	*2002*	*2003*
Rate of exchange	1.07	1.07	1.07	0.90	960.60	977.40	961.51	1 034.15	466.30	481.00	467.92	528.93	1.00	1.00	1.00	1.00
Inflation rate (percentage)	3.4	2.3	5.3	2.0	2.6	2.6	7.1	4.6	2.6	2.6	5.8	5.0	1.9	2.2	2.0	2.1
Post adjustment multiplier (percentage)	9.9	11.6	10.1	32.7	7.6	6.6	8.9	20.6	12.1	14.6	13.0	20.1	42.7	46.7	42.8	46.8

Annex II

Trial activities during 2002-2003

1. From 1 July 2002 to 30 June 2003, nine trials involving 23 accused have been conducted. Judgements have been delivered in three cases involving four accused (Elizaphan and Gérard Ntakirutimana, Eliézer Niyitegeka and Laurent Semanza). In four trials involving eight accused, the presentation of evidence has been completed and closing arguments were heard in July and August 2003 (the *Cyangugu*, *Kajelijeli*, *Kamuhanda* and *Media* cases). Judgements in these four trials are expected in the last months of 2003.

2. Consequently, it is expected that by the end of 2003, the Tribunal will have rendered 15 judgements involving 21 accused since the first trials started in January 1997 (following the arrival of the first accused person in Arusha in the middle of 1996).[a] Two trials involving 10 accused are in progress (the *Butare* and *Military* cases).

3. The Tribunal has made preparations to ensure the early commencement of new trials in its third mandate, which began in May 2003. A New Trials Committee was established, composed of representatives from the Chambers, the Prosecution and the relevant sections of the Registry (the Court Management Section, the Language Services Section and the Defence Counsel Management Section) in order to ensure the necessary coordination towards this aim. It is anticipated that four new trials involving 10 accused will have commenced by the end of 2003. Consequently, at that point in time 31 accused will have had their trials completed or will have trials in progress.

4. Of the remaining 22 detainees, one was apprehended in 1999. His trial is expected to start in 2004. The other detainees have been in custody as follows: 4 accused since 2000; 5 accused since 2001; 10 accused since 2002; and 2 accused since 2003. The Tribunal is anxious to start trials involving these accused as soon as its judicial capacity allows it to do so. It should be noted that in the biennium 2004-2005, the most important and complex trials of the Tribunal will be continuing from 2003, possibly until the latter part of 2005. These are the *Butare* case (6 accused), the *Military 1* and *Military 2* cases (4 accused each) and the *Government 1* and *Government 2* cases (4 accused each).

5. In the *Ntakirutimana* case (Elizaphan and Gérard Ntakirutimana), evidence was heard in 57 trial-days and the judgement was delivered on 19 February 2003. Both accused were found guilty of grave crimes and were sentenced to periods of imprisonment.

6. In the *Niyitigeka* case (Eliézer Niyitegeka), the chamber began the trial and finished hearing all the evidence in 32 trial-days. Judgement in that case was rendered on 15 May 2003, and the accused was sentenced to imprisonment for the remainder of his life.

7. The appeals chamber has delivered two appellate judgements on the merits (in the *Bagilishema* and *Rutaganda* cases), 6 interlocutory appeal decisions and 19 other decisions and orders. One appeal on the merits is under consideration

[a] In the *Cyangugu* case, involving three accused, the chamber envisages delivering its judgement by the end of December 2003 or early in 2004.

(Elizaphan and Gérard Ntakirutimana). Notices of appeal have been filed in respect of two trial judgements (Eliézer Niyitegeka and Laurent Semanza).

8. The appeals chamber heard the appeal against the trial chamber judgement acquitting Ignace Bagilishema on all counts. The appeals chamber unanimously rejected the appeal and gave its reasons later. The appeals chamber also heard oral arguments in the appeal of *Rutaganda*, and its judgement is expected soon.

9. The appeals chamber also delivered some 24 interlocutory decisions and received the appeals of both the prosecution and the defence in the *Ntakirutimana* case.

10. The Office of The Prosecutor has revised future investigative plans down from the original number of 136 new suspects and will be investigating just 13 new suspects in each of the years 2004 and 2005, for a possible total of 26 accused. The Prosecutor intends to conclude his investigative programme by the end of 2004 and submit the resulting indictments in respect of a total of 26 individuals by the end of 2005. The Prosecutor has also identified 40 suspects whose prosecution he intends to defer to national jurisdictions for trial. By the end of 2003, the Office of The Prosecutor anticipates having presented 6 cases involving 39 accused during the last two years.

11. To date, the Tribunal has concluded agreements with four countries on enforcing the sentences of the Tribunal. Three of them were concluded with African countries (Benin, Mali, and Swaziland). France was the fourth signatory State. Negotiations are under way with other States to secure similar agreements.

Annex III

Voluntary contributions and trust fund activities

1. The General Assembly, in its resolution 49/251 of 20 July 1995, invited Member States and other interested parties to make voluntary contributions to the Tribunal both in cash and in the form of services and supplies acceptable to the Secretary-General.

2. To date, cash contributions to the Voluntary Fund to support the activities of the International Criminal Tribunal for Rwanda amount to $8,134,999. The details are provided in the table below.

Cash contributions to the Voluntary Fund as at 31 October 2003

(United States dollars)

Contributor	*Amount*
Belgium	2 705 450
Canada	734 850
Chile	1 000
Denmark	43 452
Egypt	1 000
Finland	182 983
Greece	20 000
Holy See	3 000
Ireland	237 704
Israel	7 500
Lebanon	3 000
Netherlands	2 995 531
New Zealand	34 792
Norway	49 983
Spain	150 000
Sweden	68 729
Switzerland	188 025
United Kingdom of Great Britain and Northern Ireland	372 000
United States of America	336 000
Total	**8 134 999**

3. Projected expenditures for the biennium 2002-2003 are set out in the table below. The variance between the initial and revised estimates is due to the low level of actual contributions received or pledged compared with the projected levels. While the efforts of the Tribunal to mobilize additional resources for the Voluntary Fund continue, only one Member State has contributed or pledged to contribute to the Fund during 2003. The overall level of resources of the Fund as at 31 October 2003 was $2,427,800.

Projected expenditures by object of expenditure

(Thousands of United States dollars)

Object of expenditure	*2002-2003 estimates*	*2002-2003 revised estimates*	*Increase (decrease)*
Posts	-	-	
Other staff costs	841.5	907.7	66.2
Consultants and experts	348.5	72.2	(276.3)
Travel	373.9	543.3	169.4
Contractual services	867.5	438.4	(429.1)
General operating expenses	-	344.7	344.7
Supplies and materials	42.1	50.7	8.6
Furniture and equipment	252.1	16.6	(235.5)
Fellowships, grants and contributions	-	-	-
Other	354.3	31.0	(323.3)
Total	**3 079.9**	**2 404.6**	**(675.3)**